

**Special information:**

The new rules for working during the pandemic - Federal Ministry of Labour and Social Affairs publishes SARS-CoV-2 occupational safety standard

In everyday work, keeping the necessary distance from colleagues to reduce the risk of infection is often difficult. In particular, offices, break and sanitary rooms are usually shared. The risk of infection for employees is therefore particularly high.

In order to make employers aware of the importance of protecting the health of their employees during the corona pandemic and to provide them with guidance on the measures required to prevent the risk of infection with the virus, the Federal Ministry of Labour (BMAS) published the so-called SARS-CoV-2 occupational health and safety standard on 16 April 2020.

**What do employers have to consider from now on?**

Employers have a clear responsibility to draw up an operational concept for temporary measures to protect against infection with the corona virus and thus to implement all necessary infection protection measures. Employers should seek advice on this from the occupational safety specialists and company physicians. This operational concept of measures includes technical, organisational and personal measures. Some important measures are as follows:

**1. Workstation design**

Employees should maintain a distance of at least 1.5 m from other persons. Ideally, there should only be one person in a study at any one time. Where this is not possible, alternative protective measures such as transparent partitions must be installed. These measures also apply to activities outside enclosed spaces. For example, when driving for operational reasons, the simultaneous use of vehicles by several employees must be avoided.

**2. Sanitary rooms, canteens and break rooms**

Employers are obliged to provide skin-friendly liquid soaps and towel dispensers. Sanitary facilities and common rooms must be disinfected at regular cleaning intervals, especially in the area of door handles and handrails. Tables and chairs in canteens and break rooms must be set up at an adequate distance. Queues for the return of food and dishes and at the cash desk should be avoided. If this cannot be implemented, canteens are to be closed. Otherwise, protective distances are to be marked with adhesive tape, e.g. for standing areas.

**3. Ventilation**

Work rooms must be ventilated regularly to reduce the number of pathogens in the room air.



#### **4. Home Office**

It is still true that office work should be carried out in the home office wherever possible, especially if office space has to be used by several people with insufficient safety distances. Business trips and meetings should be reduced to the absolute minimum. Alternatively, a switch to telephone or video conferencing should be made.

#### **5. Work equipment and tools**

Tools and work equipment should be used by one person only if possible. If this is not possible, regular cleaning must be carried out before handing over to other employees. Alternatively, suitable protective gloves must be used. In addition, the same persons should always be divided into shifts together, if possible, in order to reduce possible personal contact. Particular care must be taken to ensure that personal protective equipment and work clothing is used exclusively by the respective employee, stored separately from everyday clothing and cleaned regularly.

#### **6. Obligation to wear masks outside your own office**

It is further recommended that a mask be worn when leaving one's own office and using general company areas (such as the way to the toilet) or unavoidable contact with others (such as during meetings). The masks used for this purpose should correspond to the protection classes that are also intended for use when using public transport or when shopping.

#### **7. Instructions for handling suspicious cases**

Fever, cough and shortness of breath can be signs of infection with the corona virus. Employers are obliged to ask employees with such symptoms to leave the company premises immediately or to stay at home until the suspicion has been medically investigated. The persons concerned should then immediately contact a doctor or the public health department by telephone. Employers, on the other hand, are obliged to develop a so-called pandemic plan, i.e. to draw up regulations on how to identify and subsequently inform any contact persons in the event of confirmed infections.

The complete SARS-CoV-2 occupational health and safety standard can be downloaded from the following link.

[https://www.bmas.de/SharedDocs/Downloads/DE/PDF-Schwerpunkte/sars-cov-2-arbeitsschutzstandard.pdf?\\_\\_blob=publicationFile](https://www.bmas.de/SharedDocs/Downloads/DE/PDF-Schwerpunkte/sars-cov-2-arbeitsschutzstandard.pdf?__blob=publicationFile)

#### **What are the consequences of non-compliance with occupational health and safety standards?**

Companies are now obliged to implement the comprehensive occupational health and safety standards in their plants. The standards are primarily intended to provide employers with guidance and are therefore - at the present time - not directly legally binding. This does not mean, however, that they cannot have any legal effects. In particular, it can be assumed that the standards are already being



used by courts and the employers' liability insurance association to define the scope of the duty of care. This means the following in particular:

### **1. Civil liability**

If an employee suffers damage due to non-compliance with occupational health and safety standards, it is conceivable that a court could affirm the breach of duty of care and thus also a liability of the employer.

### **2. Recourse of the employers' liability insurance association in the event of an accident**

In the event of an accident, the Employer's Liability Insurance Association can take recourse to anyone who has acted with intent or gross negligence or who has failed to take necessary actions as a superior. Misconduct by companies and superiors in the context of accident prevention can therefore have far-reaching consequences in the event of an accident. Recourse is intended to sanction the particular breach of duty in accident prevention. It can be assumed that the Employer's Liability Insurance Association will use the SARS-CoV-2 occupational safety standard as a basis for determining whether companies have violated their occupational safety obligations intentionally or through gross negligence.

### **3. Regulatory requirements and fines**

Even though the standards are not yet legally binding, it can be assumed that they will be specified by the responsible authorities in the short term and that violations will be subject to fines. In this case, non-compliance with the occupational health and safety standards could result in substantial fines:

- The responsible occupational safety authority can impose a fine of up to EUR 25,000 if companies violate an enforceable order issued to specify obligations in the sense of the SARS-CoV-2 occupational safety standard.
- In addition, the Employer's Liability Insurance Association may impose a fine of up to EUR 10,000 for culpable violations of enforceable orders issued by the Employer's Liability Insurance Association's technical supervisor.

### **4. Criminal liability**

Misconduct on the part of companies and superiors in the area of occupational health and safety can also have criminal consequences under certain circumstances. Knowledge of occupational safety standards and compliance with them can play an important role in distinguishing between intent, negligence and unpunished actions.

In addition, an employer may be liable to prosecution if he persistently disregards an enforceable order issued by the competent occupational health and safety authority or endangers the life or health of an employee by deliberately acting in contravention of occupational health and safety regulations.

**What can employers do to limit the risks?**

Companies should draw up and implement as soon as possible an operational concept of measures to protect their employees from infection with the corona virus. We recommend that you coordinate the operational measures with the company interest groups, such as the works council, at short notice. To this end, it may be necessary to conclude company agreements to safeguard co-determination rights and may also be useful to create binding rules of conduct. In addition, companies should keep an eye on further developments - in particular the concretization of and additions to occupational health and safety standards.

Please note that the above statements are only a non-binding compilation according to the current status. No liability is assumed for the correctness and completeness. We would be pleased to support you in the examination and implementation of the above-mentioned measures by means of an operational measure concept and, if necessary, the conclusion of a works council agreement in your company.

Your familiar contact persons are at your disposal regarding these topics.

In addition, you will find below our contact persons who have dealt with the above topics in particular.



## **Augsburg.**



**Dr. Andreas Katzer**

Lawyer, M.I.L (Lund)

[andreas.katzer@sonntag-partner.de](mailto:andreas.katzer@sonntag-partner.de)  
phone: +49 821 57058 - 0



**Dr. Viktor Stepien**

Lawyer

[viktor.stepien@sonntag-partner.de](mailto:viktor.stepien@sonntag-partner.de)  
phone: +49 821 57058 - 0



**Gabriele Falch**

Lawyer

[gabriele.falch@sonntag-partner.de](mailto:gabriele.falch@sonntag-partner.de)  
phone: +49 821 57058 - 0



**Martin Jost**

Lawyer (LL.M.)

[martin.jost@sonntag-partner.de](mailto:martin.jost@sonntag-partner.de)  
phone: +49 821 57058 - 0



**Julia Kapsreiter**

Lawyer

[julia.kapsreiter@sonntag-partner.de](mailto:julia.kapsreiter@sonntag-partner.de)  
phone: +49 821 57058 - 0



**Michael Zayoz**

Lawyer

[michael.zayoz@sonntag-partner.de](mailto:michael.zayoz@sonntag-partner.de)  
phone: +49 821 57058 - 0



## **Ulm.**



**Prof. Dr. Ulrike Trägner**

Lawyer

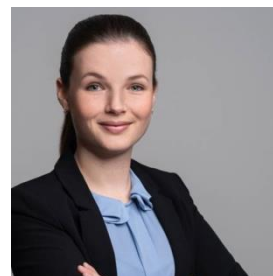
[ulrike.traegner@sonntag-partner.de](mailto:ulrike traegner@sonntag-partner.de)  
phone: +49 731 379 58-0



**Reinmar Hagner**

Lawyer

[reinmar.hagner@sonntag-partner.de](mailto:reinmar.hagner@sonntag-partner.de)  
phone: +49 731 379 58-0



**Elizabeth Hirth**

Lawyer

[elisabeth.hirth@sonntag-partner.de](mailto:elisabeth.hirth@sonntag-partner.de)  
phone: +49 731 379 58-0

## **Nuremberg.**



**Natalie Ehrhardt**

Lawyer

[natalie.ehrhardt@sonntag-partner.de](mailto:natalie.ehrhardt@sonntag-partner.de)  
phone: +49 911 81511-0

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## **Concluding remarks**

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